

AGENDA MEMO

CITY COUNCIL MEETING DATE: JUNE 20, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: SUP-20462 - APPLICANT: ED PEYGHAM - OWNER: BP
WEST COAST PRODUCTS, LLC**

**** CONDITIONS ****

The Planning Commission (7-0 vote) and staff recommend APPROVAL, subject to:

Planning and Development

1. Conformance to the conditions for Variance (VAR-20464) and Site Development Plan Review (SDR-20461), if approved.
2. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. The sale of individual containers of any size of beer, wine coolers or screw cap wine is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is for a proposed Beer/Wine/Cooler off-sale establishment at a proposed service station without automotive repair on the site of an existing Beer/Wine/Cooler off-sale establishment at an existing service station without automotive repair. Companion requests for a Variance (VAR-20464) to allow a zero-foot rear setback where 20 feet is required and a Site Development Plan Review (SDR-20461) for a 2,942 square-foot service station without automotive repair and waivers to allow a zero foot landscape buffer along the east property line where eight feet is required, and a reduced landscape buffer along Washington Avenue where 15 feet is required in order to accommodate a bus turnout lane.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
04/03/68	The Board of Commissioners approved a Rezoning (Z-7-68) to C-1 (Limited Commercial) including a site plan for a service station and a Special Use Permit (U-19-68) for a Service Station.
07/14/97	The City Council approved a Rezoning (Z-45-97) from C-1 (Limited Commercial) to PD (Planned Development) with a proposed use of Commercial Shopping Center with Limited Food Processing and Manufacturing Facilities on the subject site. The Planning Commission and staff recommended approval.
01/12/98	The City Council approved a request to Rescind a previous action that approved a Rezoning (Z-45-97) from C-1 (Limited Commercial) to PD (Planned Development) with a proposed use of Commercial Shopping Center with Limited Food Processing and Manufacturing Facilities on the subject site. Staff recommended approval.
11/05/98	A request for a Special Use Permit to allow a double-faced 14 foot by 48 foot Off-Premise Advertising (Billboard) Sign 40 feet in height was withdrawn without prejudice at the Planning Commission.
04/26/07	The Planning Commission held in abeyance this application and a concurrent Variance (VAR-20464) Site Development Plan Review (SDR-20461) at the applicants request in order to provide for a bus turnout lane on Washington Avenue.
05/10/07	<p>The Planning Commission recommended approval of companion items VAR-20494 and SDR-20461 concurrently with this application.</p> <p>The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #2/rl).</p>

<i>Related Building Permits/Business Licenses</i>	
06/28/95	Active Business License #C20-01686-7-000356 for Convention Hall Gaming Tax issued to United Coin Machine on the subject site.
06/28/95	Active Business License #G01-01686-4-000356 for Gaming Restricted issued to United Coin Machine on the subject site.
12/02/02	Active Business License #P35-00138-0-082740 for an Outdoor Pay Phone issued to Custom Communication on the subject site.
12/03/02	Active Business License #P35-00385-0-07230 Outdoor Pay Phone issued to Golden Telephone, Inc. on the subject site.
12/03/02	Active Business License #P35-00386-0-07230 Outdoor Pay Phone issued to Golden Telephone, Inc. on the subject site.
08/30/05	Active Business License #C05-01289-b-034615 for Tobacco Dealer – Retail issued to Ed’s Decatur AM PM on the subject site.
08/30/05	Active Business License #C15-00087-3-034615 for a Convenience Store issued to Ed’s Decatur AM PM on the subject site. This issuance is a reclassification of a previous License G05-01147 for Groceries/Food Products.
08/30/05	Active Business License #L10-00086-4-000622 for Beer/Wine/Cooler off-sale issued to Ed’s Decatur AM PM on the subject site. This issuance is a reclassification of a previous License L-04-00922 for alcohol sales..
02/21/07	Pending Business License #C20-96705-7-000356 for Convention Hall Gaming Tax approved by City Council for Ed’s Decatur AM/PM on the subject site.
02/21/07	Pending Business License #G01-96704-4-000356 Gaming Restricted approved by City Council for Ed’s Decatur AM/PM on the subject site.
<i>Pre-Application Meeting</i>	
03/02/07	A pre-application meeting was held to discuss the requirements for this and related applications. Included in the discussion was that the size of the Liquid Petroleum Gas (LPG) installations would warrant a special use permit, and a need to verify that any on-site cross-access agreements would not be disrupted by changes to the site.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	

<i>Field Check</i>	
04/05/07	A field check was conducted to verify current conditions on the subject site.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.70
Net Acres	0.68

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Service Station without Auto Repair	SC (Service Commercial)	C-1 (Limited Commercial)
North	Public Golf Course	PF (Public Facilities)	C-V (Civic)
South	Retail, Auto Dealership	SC (Service Commercial) GC (General Commercial)	C-1 (Limited Commercial) C-2 (General Commercial)
East	Retail, Townhomes	SC (Service Commercial) ML (Medium Low Density Residential)	C-1 (Limited Commercial) R-PD8 (Residential Planned Development – 8 Units per Acre)
West	Service Station without Auto Repair	SC (Service Commercial)	C-1 (Limited Commercial)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	NA
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District	X		Y
Trails		X	Y or N
Rural Preservation Overlay District		X	Y or N
Development Impact Notification Assessment		X	Y or N
Project of Regional Significance		X	Y or N

Airport Overlay – 140-Foot Buffer

The subject site is located within the 140-foot buffer of the Airport Overlay District. As the proposed structure is only 19 feet in maximum height, the restrictions of this district do not apply.

DEVELOPMENT STANDARDS

Pursuant to Title 19.08

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	NA	30,796 SF	Y
Min. Lot Width	100 Feet	174 Feet	Y
Min. Setbacks			
• Front	25 Feet	50 Feet	Y
• Side	10 Feet	23 Feet	Y
• Corner	15 Feet	37.5 Feet	Y
• Rear	25 Feet	0 Feet	N*
Min. Distance Between Buildings	NA	50 Feet	Y
Max. Lot Coverage	50%	9.5%	Y
Max. Building Height	NA	19 Feet	Y
Trash Enclosure	Screened	Screened	Y
Mech. Equipment	Screened	Screened	Y

* *Subject of Variance (VAR-20464).*

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
Parking Area	1 Tree/ 6 Spaces	2 Trees	Y	N*
Buffer:				
North	1 Tree/30 Linear Feet 15-foot buffer width	5 Trees	6 Trees 15-Foot Buffer (10-Foot buffer along bus turnout lane)	N**
South	1 Tree/30 Linear Feet 8-foot buffer width	4 Trees	4 Trees 8-Foot Buffer	Y
East	1 Tree/30 Linear Feet 8-foot buffer width	4 Trees	0 Trees 0-Foot Buffer	N**
West	1 Tree/30 Linear Feet 15-foot buffer width	5 Trees	5 Trees 15-Foot Buffer	Y
TOTAL		18	15	N**

* While the minimum number of trees is provided, Title 19.12 requires the placement of parking lot trees in fingers spaced one every six spaces. A condition of improvement will be one additional parking lot landscape finger.

** Waivers requested below.

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Service Station without Automotive Repair	2,942 SF	1 space/ 250 SF	11	1	11	1	Y
TOTAL (including handicap)			12		12		Y

<i>Waivers</i>		
<i>Request</i>	<i>Requirement</i>	<i>Staff Recommendation</i>
No trees and no landscape buffer along rear property line.	4 Trees and 8-foot landscape buffer.	Approval
A ten-foot landscape buffer along the corner side perimeter in order to accommodate a bus turnout lane	15 foot landscape buffer.	Approval

- **Use**

The sale of beer/wine/coolers for consumption off-premise in conjunction with a service station is an allowed use within the C-1 (Limited Commercial) Zoning District with the approval of a Special Use Permit. The reason for a special use permit is to ensure that a proposed use conducted in a manner that is harmonious and compatible with uses located on the same or surrounding properties. The process recognizes that, within a given zoning district, certain uses may be appropriate and compatible in some locations but not in others.

The Special Use Permit process allows a site-specific inquiry into the compatibility of a proposed use at a particular location, taking into account: the characteristics of the site and the surroundings; the relevant zoning and planning principles; and the input of the Planning Commission, City Council and other interested parties. The proposed Beer/Wine/Cooler Off-Sale Establishment use is compatible with the surrounding neighborhood, and is not within the minimum distance separation of any specified protected use. Therefore staff recommends denial.

- **Conditions**

The submitted documents indicate that the proposed use meets all of the applicable requirements for this special use from Title 19.04 listed below; therefore, the proposed use is appropriate at the subject site and staff recommends approval.

The following conditions apply to the proposed use:

1. Except as otherwise provided in this Chapter, no retail establishment with accessory package liquor off-sale (hereinafter “establishment”) shall be located within four hundred feet of any church, synagogue, child care facility licensed for more than twelve children, or City park.
2. Except as otherwise provided in Paragraph 3 below, the distances referred to in Paragraph 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purpose of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:
 - a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on- site parking and which has been created so as to avoid the distance limitation described in Paragraph 1.
3. In the case of an establishment property to be located on a parcel of at least eighty acres in size, the minimum distances referred to in Paragraph 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or
 - b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property lines of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
4. When considering a Special Use Permit application for an establishment which also requires a waiver of the distance limitation in Paragraph 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reasons in support of the decision.
5. The minimum distance requirements in Paragraph 1 do not apply to:
 - a. An establishment which has a no restricted gaming license in connection with a hotel having two hundred or more guest rooms on or before July 1, 1992 or in connection with a resort hotel having in excess of two hundred guest rooms after July 1, 1992; or

- b. A proposed establishment having more than fifty thousand square feet of retail floor space.
- 6. All businesses which sell alcoholic beverages shall conform to the provisions of Chapter 6.50 of the Las Vegas Municipal Code.
- 7. The minimum distance requirements set forth in paragraph 1, which are otherwise nonwaivable under the provisions of this subdivision, maybe be waived:
 - a. In accordance with the provisions of Section 19.040.050(A)(4) for any establishment which is proposed to be located on a parcel within the Downtown Casino Overlay District;
 - b. In accordance with the applicable provisions of the "Town Center Development Standards Manual" for any establishment which is proposed to be located within the T-C (Town Center) Zoning District and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan; or
 - c. In connection with a retail establishment having less than twenty thousand square feet of retail floor space, if the area to be used for the sale, display or merchandising of alcoholic beverages and each use to be protected are separated by a highway or right-of-way with a width of at least one hundred feet.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **"The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan."**

The proposed Beer/Wine/Cooler Off-Sale Establishment use would be compatible with existing and future surrounding land use and development. The proposed use is a continuation of an existing use; however, as the redevelopment of the existing business may require the establishment to remain closed for longer than 180 days, a Special Use Permit is required in order to perpetuate this existing use.

2. **"The subject site is physically suitable for the type and intensity of land use proposed."**

The subject site is physically suitable for Beer/Wine/Cooler Off-Sale Establishment. The use will not be too intense for this area of the City. A companion Variance (VAR-20464) requests a zero-foot rear-yard setback where 20 feet is required. Staff recommends approval of this Variance as it helps bring the traffic standards into compliance for an existing use on the subject site, and is not a solely self-created hardship.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

The site gains access from Decatur Boulevard, which is designated by the Master Plan of Streets and Highways as a 100-foot Primary Arterial and by Washington Avenue, an 80-foot Secondary Collector Street. Both provide adequate access to the site. Further, the redevelopment of the existing uses on this site is designed to improve traffic flow at the intersection of these streets.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The site would be subject to frequent inspections and would not compromise public health or safety.

5. **The use meets all of the applicable conditions per Title 19.04.**

The proposed Beer/Wine/Cooler Off-Sale use at a proposed service station without automotive repair meets all of the applicable conditions per Title 19.04.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 13

SENATE DISTRICT 9

NOTICES MAILED 590 by City Clerk

APPROVALS 0

PROTESTS 0